

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NEW YORK

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DAVID VANN,

18-CV-6464 (EAW)(JMP)

Plaintiff,

-against-

THE CITY OF ROCHESTER, a municipal entity, POLICE OFFICER MATTHEW DRAKE, IBM # 1956, POLICE OFFICER STEVEN MITCHELL, IBM # 2134, INVESTIGATOR JEFFREY KESTER, IBM # 2230, SERGEANT JEFFREY LAFAVE, II, IBM # 1634 POLICE OFFICER DAVID E. KEPHART, IBM # 2074, POLICE OFFICER ADAM BRODSKY, IBM # 2478, POLICE OFFICER TIMOTHY DEMPSEY, IBM # 2122, INVESTIGATOR CHRISTOPHER MUSCATO, IBM # 1331, CAPTAIN GARY MOXLEY, POLICE OFFICER ANGEL PAGAN, IBM # 2421, POLICE OFFICER CHRISTOPHER J. BARBER, IBM # 1949, SERGEANT DANIEL J. ZIMMERMAN, IBM # 295, POLICE OFFICER ERIC MCGRAW, IBM # 2131, SERGEANT JOSEPH LAIOSA, IBM # 1180, INVESTIGATOR TOMESHA ANGELO, IBM # 1665, TECHNICIAN STEPHANIE MINTZ, IBM # 2496, Police Officers “JOHN DOES 1-10” (whose names are currently unknown), and other unidentified members of the Rochester Police Department,

Defendants.

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**PLAINTIFF’S SECOND REQUESTS FOR PRODUCTION OF DOCUMENTS TO
DEFENDANTS PURSUANT TO THE APRIL 13, 2021 ORDER, ECF 57**

PLEASE TAKE NOTICE that, pursuant to the Order entered by Judge Mark J. Pedersen on April 13, 2021, ECF 57, Rule 26 of the Local Rules of the United States District Court for the Western District of New York (the “Local Rules”) and Rule 34 of the Federal Rules of Civil Procedure, and that defendants produce for copying and inspection at the office of Roth & Roth, LLP, 192 Lexington Avenue, 8th Floor, New York, New York 10016, within **THREE WEEKS**, all documents and materials described herein.

DEFINITIONS AND INSTRUCTIONS:

Plaintiff hereby incorporates the definitions and instructions stated in his First Request for Production of Documents to Defendants, dated April 16, 2020.

Additionally, Judge Pedersen's April 13, 2021 Order stated, in pertinent part:

5. **RFPs 70–72:** By April 27, 2021, Defendants agreed and shall produce all documents demanded in RFPs No. 70–72, other than the documents demanded in RFP 70(f) and (g), as same have already been produced in this matter.

6. **Officer Personnel Files and Misconduct Records:** Defendants agreed and shall produce all “substantiated” and “unsubstantiated” records of civilian and internal complaints of misconduct for the Other Identified Officers and Officer Defendants. This includes the complete personnel files, Professional Standard Section files, Civilian Review Board files, disciplinary records, all complaints of misconduct, and all internal investigatory records for complaints of misconduct.

7. **List of Officer Misconduct Records:** To avoid duplicate production, by April 27, 2021, Defendants agree to produce a list of all civilian and internal complaints of misconduct for the Other Identified Officers and Officer Defendants. Plaintiff shall compare the list to the materials Defendants produce in response to item no. 5 in this Order, and shall serve a demand on Defendants for the materials specified in item no. 6 of this Order that were not produced in response to item no. 5 of this Order.

8. **Production of Officer Personnel Files and Misconduct Records:** Within three weeks of receiving the demand from Plaintiff of the materials identified in item no. 7 of this Order, Defendants agreed and shall respond and produce all materials demanded.

ECF 57.

Notably, Defendants failed to ever produce complete lists of “all civilian and internal complaints of misconduct”, and instead only produced complaints concerning use of force. For the remainder of the misconduct complaints, Defendants produced the concise officer histories for the

Other Identified Officers and Officer Defendants. Thus, Plaintiff compared the lists of internal force complaints and civilian complaints, and concise officer histories for the Other Identified Officers and Officer Defendants, to the materials Defendants produced in response to item no. 5, and pursuant to item 7 of the April 13, 2021 Order, hereby serves the below demand for the materials specified in item no. 6 that were not produced in response to item no. 5.

FROM THE LIST OF CIVILIAN FORCE COMPLAINTS:

1. 2017-0055
Christopher Barber
2. 2010-1217
Joseph Ferrigno
3. 2012-0568
Joseph Ferrigno
4. 2012-0568
Joseph Ferrigno
5. 2019-0077
Kevin Leckinger
6. 2016-0229
Spenser McAvoy
7. 2014-0243
Thomas Rodriguez
8. 2014-0330
Michael Sippel

FROM THE LIST OF INTERNAL FORCE COMPLAINTS:

9. 2017-1049
Alexander Baldauf

10. 2011-1157
Randy Book
11. 2016-0221
Joseph Ferrigno
12. 2016-0288
Patrick Giancursio
13. 2016-0327
Patrick Giancursio
14. 2018-0287
David Kephart
15. 2017-0504
Kevin Leckinger
16. 2018-1083
Jonathan Marsh
17. 2016-0817
Jonathan Marsh
18. 2016-0817
Spenser McAvoy
19. 2018-0627
Spenser McAvoy
20. 2018-0287
Steven Mitchell
21. 2011-0033
Steven Mitchell
22. 2012-0742
Eliud Rodriguez
23. 2017-0289
Thomas Rodriguez

24. 2015-0132
Michael Sippel

25. 2018-0627
Michael Sippel

26. 2018-1061
William Wagner

27. 2016-0327
William Wagner

FROM CONCISE OFFICER HISTORIES:

Alexander Baldauf

28. IA No: 2011-0051
29. IA No: 2011-0361
30. IA No: 2012-0715
31. IA No: 2013-1168
32. IA No: 2015-0118
33. IA No: 2015-0267
34. IA No: 2015-0321
35. IA No: 2015-0338
36. IA No: 2015-0614
37. IA No: 2015-0615
38. IA No: 2015-0586
39. IA No: 2016-0096
40. IA No: 2016-0227
41. IA No: 2016-0374
42. IA No: 2016-0478
43. IA No: 2017-0033
44. IA No: 2017-0985
45. IA No: 2017-1064
46. IA No: 2018-0029
47. IA No: 2018-0094
48. IA No: 2018-0464
49. IA No: 2018-0468
50. IA No: 2018-0511
51. IA No: 2018-1005
52. IA No: 2018-1077
53. IA No: 2019-0138
54. IA No: 2019-0554
55. IA No: 2019-0733

56. IA No: 2019-1046
57. IA No: 2020-0033
58. IA No: 2020-0371
59. IA No: 2020-1186
60. IA No: 2020-1422
61. IA No: 2020-1304
62. IA No: 2020-1497
63. IA No: 2021-0062

Randy Book:

64. IA No: 2015-0299
65. IA No: 2016-0903
66. IA No: 2018-0440
67. IA No: 2018-1189
68. IA No: 2019-0124

Adam Brodsky:

69. IA No: 2016-0385

Timothy Dempsey:

70. IA No: 2011-0388
71. IA No: 2011-0999
72. IA No: 2012-0356
73. IA No: 2015-1038

Matthew Drake:

74. IA No: 2013-0993
75. IA No: 2015-0288
76. IA No: 2017-0289

Joseph M. Ferrigno:

77. IA No: 2009-0406
78. IA No: 2010-1101
79. IA No: 2010-1217
80. IA No: 2010-1360
81. IA No: 2011-0806
82. IA No: 2012-0568
83. IA No: 2012-0964
84. IA No: 2013-0495
85. IA No: 2013-0641
86. IA No: 2013-1153
87. IA No: 2015-0929

88. IA No: 2016-0221

89. IA No: 2016-0247

90. IA No: 2016-0516

Patrick Giancursio:

91. IA No: 2014-0677

92. IA No: 2016-0203

93. IA No: 2016-0288

94. IA No: 2016-0315

95. IA No: 2016-0612

96. IA No: 2016-0816

97. IA No: 2013-1158

98. IA No: 2013-1060

99. IA No: 2015-0112

100. IA No: 2015-0281

101. IA No: 2015-0317

102. IA No: 2015-0361

103. IA No: 2015-0363

104. IA No: 2015-0473

105. IA No: 2015-0474

106. IA No: 2015-0618

107. IA No: 2016-0292

108. IA No: 2016-0328

109. IA No: A16-0092

110. IA No: 2016-0300

111. IA No: A16-0114

112. IA No: 2016-0405

113. IA No: 2016-0448

114. IA No: 2016-0488

115. IA No: 2016-0315

116. IA No: 2016-0694

117. IA No: 2016-0612

118. IA No: 2016-0692

119. IA No: 2016-0715

120. IA No: 2016-0756

121. IA No: 2016-0816

122. IA No: 2016-1064

123. IA No: 2017-0034

124. IA No: 2017-0086

125. IA No: 2017-0422

126. IA No: 2019-0101

127. IA No: 2017-0645

128. IA No: 2017-0700

- 129. IA No: 2018-1219
- 130. IA No: 2018-1231
- 131. IA No: 2019-0191
- 132. IA No: 2020-0352
- 133. IA No: 2020-0372
- 134. IA No: 2020-0562
- 135. IA No: 2020-0552

Rickey J. Harris:

- 136. IA No: 2013-1168
- 137. IA No: 2014-0699
- 138. IA No: 2015-0586
- 139. IA No: 2016-0187

David Kephart:

- 140. IA No: 2012-0567
- 141. IA No: 2017-0632
- 142. IA No: 2018-0287

Jeffrey A. Kester:

- 143. IA No: 2013-1191
- 144. IA No: 2015-0288
- 145. IA No: 2015-0931
- 146. IA No: 2016-0214
- 147. IA No: 2017-0632

Jeffrey Lafave:

- 148. IA No: 2006-0033
- 149. IA No: 2006-0791
- 150. IA No: 2008-0098
- 151. IA No: 2014-0157
- 152. IA No: 2015-0394
- 153. IA No: 2020-0821
- 154. IA No: 2020-1234
- 155. IA No: 2020-1263
- 156. IA No: 2006-0209
- 157.

Joseph Laiosa:

- 158. IA No: 2008-0944
- 159. IA No: 2012-0607
- 160. IA No: 2017-0054
- 161. IA No: 2017-0181

Anthony Liberatore:

- 162. IA No: 2010-1101
- 163. IA No: 2010-1360
- 164. IA No: 2013-0495
- 165. IA No: 2015-0007
-
- 166. IA No: 2007-0162
- 167. IA No: 2010-1168
- 168. IA No: 2011-1055
- 169. IA No: A12-0449
- 170. IA No: 2012-1359

Jonathan Marsh:

- 171. IA No: 2010-0118
- 172. IA No: 2010-0726
- 173. IA No: 2011-0212
- 174. IA No: 2012-0617
- 175. IA No: 2013-1238
- 176. IA No: 2014-0341
- 177. IA No: 2014-0421
- 178. IA No: 2016-0123
- 179. IA No: 2016-0371
- 180. IA No: 2016-0410
- 181. IA No: 2016-0527
- 182. IA No: 2016-0675
- 183. IA No: 2016-0781
- 184. IA No: 2016-0782
- 185. IA No: 2016-0808
- 186. IA No: 2016-0814
- 187. IA No: 2016-0817
- 188. IA No: A16-0258
- 189. IA No: 2016-0884
- 190. IA No: 2016-0899
- 191. IA No: 2016-0879
- 192. IA No: 2016-0989
- 193. IA No: 2017-0113
- 194. IA No: A17-0039
- 195. IA No: 2017-0191
- 196. IA No: 2017-0217
- 197. IA No: 2017-0355
- 198. IA No: 2017-0358

- 199. IA No: A17-0181
- 200. IA No: 2017-0510
- 201. IA No: 2017-0487
- 202. IA No: 2017-0557
- 203. IA No: 2017-0562
- 204. IA No: 2017-0571
- 205. IA No: 2017-0574
- 206. IA No: 2017-0714
- 207. IA No: 2017-0708
- 208. IA No: A17-0182
- 209. IA No: 2017-0807
- 210. IA No: 2017-0839
- 211. IA No: 2017-0953
- 212. IA No: 2017-0954
- 213. IA No: 2017-0958
- 214. IA No: 2017-0990
- 215. IA No: 2017-1002
- 216. IA No: 2017-1034
- 217. IA No: 2017-1035
- 218. IA No: 2017-1122
- 219. IA No: 2017-1179
- 220. IA No: 2018-0066
- 221. IA No: 2018-0069
- 222. IA No: 2018-0140
- 223. IA No: 2018-0216
- 224. IA No: 2018-0237
- 225. IA No: 2018-0318
- 226. IA No: 2018-0231
- 227. IA No: 2018-0374
- 228. IA No: 2018-0292
- 229. IA No: 2018-0378
- 230. IA No: 2018-0629
- 231. IA No: 2018-0865
- 232. IA No: 2018-0804
- 233. IA No: 2018-0830
- 234. IA No: 2018-1083
- 235. IA No: 2019-0409
- 236. IA No: 2019-0567
- 237. IA No: 2019-0913
- 238. IA No: 2019-1289
- 239. IA No: 2020-0298
- 240. IA No: 2020-0438
- 241. IA No: 2020-0597

- 242. IA No: 2020-0611
- 243. IA No: 2020-0610
- 244. IA No: 2020-0609
- 245. IA No: 2020-0608
- 246. IA No: 2020-0605
- 247. IA No: 2020-1374
- 248. IA No: 2020-1401

Mario Masic:

- 249. IA No: 2009-0290
- 250. IA No: 2009-1275
- 251. IA No: 2010-0148
- 252. IA No: 2010-0714
- 253. IA No: 2014-0338
- 254. IA No: 2014-0351
- 255. IA No: 2017-0889
-
- 256. IA No: 2008-0071
- 257. IA No: 2011-0257
- 258. IA No: 2011-0674
- 259. IA No: 2013-0411
- 260. IA No: 2014-0264
- 261. IA No: 2015-0135
- 262. IA No: 2015-0395
- 263. IA No: 2015-0468
- 264. IA No: 2015-0733
- 265. IA No: 2018-0718
- 266. IA No: 2020-0285

Eric McGraw:

- 267. IA No: 2012-1191

Andrew McPherson:

- 268. IA No: 1998-0248
- 269. IA No: 1999-0219

Steven Mitchell:

- 270. IA No: 2011-0033
- 271. IA No: 2011-0430
- 272. IA No: 2012-0286
- 273. IA No: 2017-0632
- 274. IA No: 2018-0287

Gary Moxley:

- 275. IA No: 2000-0607
- 276. IA No: 2007-0678

Christopher Muscato:

- 277. IA No: 2016-0929

Angel Pagan:

- 278. IA No: 2015-0003
- 279. IA No: 2016-0408
- 280. IA No: 2016-0802
- 281. IA No: 2016-0816
- 282. IA No: 2017-1072
- 283. IA No: 2020-0857

Eliud Rodriguez:

- 284. IA No: 1994-0548
- 285. IA No: 1997-0761
- 286. IA No: 1998-1282
- 287. IA No: 1999-0625
- 288. IA No: 2001-0318
- 289. IA No: 2012-0742
- 290. IA No: 2013-1287
- 291. IA No: 2014-0103
- 292. IA No: 2014-0134
- 293. IA No: 2016-0347
- 294. IA No: 2020-1281

Thomas Rodriguez

- 295. IA No: 1997-0546
- 296. IA No: 1997-0566
- 297. IA No: 1999-0979
- 298. IA No: 1999-0987
- 299. IA No: 2000-0028
- 300. IA No: 2000-1123
- 301. IA No: 2002-0828
- 302. IA No: 2013-1289
- 303. IA No: 2014-0243
- 304. IA No: 2015-1039
- 305. IA No: 2016-0247

306. IA No: 2016-0679
307. IA No: 2017-0289
308. IA No: 2017-0716

309. IA No: 1992-0406
310. IA No: 1993-1003
311. IA No: 2000-0284
312. IA No: 2006-0226
313. IA No: 2007-0927
314. IA No: 2015-0840
315. IA No: 2015-1039
316. IA No: 2016-0052
317. IA No: 2016-0098
318. IA No: 2016-0243
319. IA No: A16-0107
320. IA No: 2016-0416
321. IA No: 2016-0661
322. IA No: 2016-0728
323. IA No: 2016-0731
324. IA No: 2016-0732
325. IA No: 2016-0735
326. IA No: 2016-0739
327. IA No: 2016-0743
328. IA No: 2016-0679
329. IA No: 2016-0960
330. IA No: 2020-0271
331. IA No: 2020-0351

William Wagner

332. IA No: 2015-0773
333. IA No: 2015-0863
334. IA No: 2016-0203
335. IA No: 2016-0315
336. IA No: 2016-0327
337. IA No: 2016-0815
338. IA No: 2018-1061
339. IA No: 2019-0287

Daniel J. Zimmerman

340. IA No: 1991-0272
341. IA No: 1991-0983
342. IA No: 1996-0188

Dated: New York, New York
October 10, 2022

ROTH & ROTH LLP

By: ~//s//~
Elliot Dolby Shields, Esq.
Attorneys for Plaintiff
192 Lexington Ave, Suite
802 New York, New York
10016 Ph: (212) 425-1020

To: Jonathan Campolieto, ESQ
Assistant Corporation Counsel
Attorneys for Defendants
City Hall Room 400A, 30 Church Street
Rochester, New York 14614
(585) 428-6812